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#### STATE OF ARIZONA

APR 2 8 1998

DEPARTMENT OF INSURANCE

DEPT. OF INSUHANCE

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In the Matter of:

No. 98A-013-INS

ROBERT PONIKVAR, 5

AMG BONDING & INSURANCE SERVICES, INC.

CONSENT ORDER

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Respondents.

A Notice of Hearing was issued by the Director ("Director") of the Arizona Department of Insurance (the "Department") on January 30, 1998, wherein the Department made certain allegations of violations of A.R.S. Title 20 committed by Respondents. Respondents received a copy of this Notice. Respondents have been advised of their right to a hearing in this matter, which they waive.

Respondents admit the following Findings of Fact are true and consent to the entry of the following Conclusions of Law and Order.

#### FINDINGS OF FACT

- 1. Respondent Robert Ponikvar ("Ponikvar") is currently, and was at all material times, licensed as a property and casualty insurance broker (License No. 833841). That license is due to expire August 31, 1998.
- Respondent AMG Bonding and Insurance Services, Inc. ("AMG") is a duly authorized corporation and is currently, and was at all material times, licensed as a property and casualty insurance broker (License No. 6838). Ponikvar is a corporate

officer of AMG and was authorized to exercise the powers of AMG's license. Ponikvar is listed as the President and sole shareholder of AMG.

### COUNT I

- 3. Between July 13, 1993 and March 28, 1994, Respondents AMG and Ponikvar procured surety bonds for various Arizona insureds through Prestige Casualty Company ("Prestige Casualty"). In procuring some of the surety bonds, Respondents executed the bonds as the attorney-in-fact for Prestige Casualty. The surety bonds were routinely accompanied by a General Power of Attorney authorizing Respondents to act on behalf of Prestige Casualty.
- 4. In connection with the procurement of the abovementioned surety bonds, Respondent AMG also collected bond premiums on behalf of Prestige Casualty and forwarded only a portion of the premium monies owed to Prestige Casualty and/or JKM International Corporation ("JKM"), the managing general agent for Prestige Casualty. In late 1994, after Prestige Casualty was placed in receivership by the Illinois Department of Insurance, the Special Deputy Receiver for Prestige Casualty conducted an audit of AMG. The Special Deputy Receiver concluded AMG owed Prestige Casualty an additional \$15,060.60 in bond premium. In November 1995, AMG, through its President Robert Ponikvar, entered into an agreement with the Special Deputy Receiver for Prestige Casualty for the payment of \$15,060.60, with said payment to be made in monthly installments beginning in January 1996 until the

entire amount was paid. Respondent AMG has failed to remit to Prestige Casualty the full \$15,060.60 in bond premiums.

- JKM and AMG (the "Agreement"), Respondent AMG was required to submit to JKM any premiums AMG collected on the above-mentioned surety bonds within one week of their receipt. Under the Agreement, AMG also assumed full responsibility for all premiums on surety bonds issued on behalf of Prestige Casualty/JKM.
- 6. To date, neither JKM nor Prestige Casualty has received the full amount of the bond premiums due Prestige Casualty from Respondent AMG, as \$7,560.60 remains outstanding.

#### COUNT II

7. On or about December 5, 1996, the Director of the Illinois Department of Insurance ("Director of Insurance") issued an Order to Cease and Desist In the Matter of AMG Bonding & Insurance Services, Inc., et al., Hearing No. 3488 ("C&D Order"). The C&D Order was based on findings that Respondents AMG and Ponikvar, et al., transacted insurance business in the State of Illinois without first procuring a Certificate of Authority from the Director of Insurance, in violation of Section 121 of the Illinois Insurance Code. Pursuant to the C&D Order, Respondents AMG and Ponikvar, et al., were ordered to cease and desist any and all practices and activities with respect to the solicitation, negotiation or effectuation of insurance coverages in the State of Illinois.

- 8. On or about January 8, 1997, a hearing was held in the above-referenced matter but Respondents AMG and Ponikvar failed to appear at the hearing to contest or otherwise refute the allegations of the Director of Insurance. The hearing officer found that Respondents AMG and Ponikvar, et al., had been properly noticed.
- 9. On or about February 21, 1997, the Director of Insurance issued a Final Order in the above-referenced matter adopting the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, and ordered that the C&D Order previously issued be made permanent against Respondents AMG and Ponikvar, et al.

#### COUNT III

- 10. On or about November 27, 1996, an Information was filed in United States District Court, District of Arizona, <u>United States of America v. Robert Ponikvar</u>, Case No. CR-96-521-PHX-MS ("Case No. CR-96-521"), charging Ponikvar with one count of Conspiracy, in violation of 18 U.S.C. § 371, for knowingly, intentionally, and unlawfully conspiring to commit an offense against the United States by obtaining monies, of some value, from the General Services Administration (GSA), an agency of the United States, property of the United States, a Class A Misdemeanor, in violation of 18 U.S.C. § 641.
- 11. On or about December 23, 1996, Ponikvar entered into a plea agreement in Case No. CR-96-521, wherein he pleaded guilty to a violation of 18 U.S.C. 371, a misdemeanor. Pursuant to the plea agreement, between December 1994 and March 1995, Ponikvar

knowingly conspired with others to use false certificates of title as supporting documents in surety bond packages Ponikvar and others offered to government contractors. The United States paid for these surety bond packages, via the contractors, and Ponikvar and others received monetary proceeds as a result.

12. On or about April 23, 1997, the United States District Court, District of Arizona, entered a Judgment in Case No. CR-96-521, convicting Ponikvar of Conspiracy to Commit an Offense Against the United States by Obtaining Monies from an Agency of the United States, from the General Services Administration (GSA), Property of the United States, a Class A Misdemeanor, in violation of 18 U.S.C. § 641.

# CONCLUSIONS OF LAW

- 1. The Department has jurisdiction in this matter.
- 2. Respondents' conduct alleged above constitutes a record of dishonesty in business or financial matters within the meaning of A.R.S. § 20-316(A)(1) together with A.R.S. § 20-290(B)(2).
- 3. Respondents' conduct alleged above constitutes wilful violation of, or wilful noncompliance with, any provision of this title, or any lawful rule, regulation or order of the director, pursuant to A.R.S. § 20-316(A)(2).
- 4. Respondents' conduct alleged above constitutes the misappropriation or conversion to their own use or illegal withholding of monies belonging to policyholders, insurers, beneficiaries or others and received in or during the conduct of

business under the licenses or through their use, in violation of A.R.S. § 20-316(A)(4).

- 5. Respondents' conduct alleged above constitutes a conduct of affairs under the license showing the licensees to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer, within the meaning of A.R.S. § 20-316(A)(7).
- 6. The license of a firm or corporation may be suspended, revoked or refused also for any of such causes as relate to any individual designated in the license to exercise its powers pursuant to A.R.S. § 20-316(B).
- 7. Grounds exist for the Director to suspend, revoke or refuse to renew Respondents' insurance licenses, impose a civil penalty upon them, and/or order restitution, pursuant to A.R.S. § 20-316(A), 20-316(B) and 20-316(C).

#### ORDER

### NOW, THEREFORE, IT IS ORDERED:

- 1. All insurance licenses held by Respondents Robert
  Ponikvar and AMG Bonding & Insurance Services, Inc. are revoked
  effective upon entry of this Order.
- 2. Respondent AMG Bonding & Insurance Services, Inc. shall make restitution to Prestige Casualty Company in the amount of \$7,560.60. Payment shall be made to the Office of the Special Deputy Receiver representing the Illinois Director of Insurance, the Domiciliary Liquidator of Prestige Casualty Co.

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3. The hearing set for April 29, 1998 shall be vacated upon entry of this Order.

DATED this 28 day of April, 1998.

OHN A. GREENE, Director

Árizona Department of Insurance

## CONSENT TO ORDER

- 1. Respondents have reviewed the attached Order.
- 2. Respondents are aware of their right to a hearing at which hearing they may be represented by counsel, present evidence and cross-examine witnesses. Respondents waive their right both to demand a public hearing and to seek judicial review of this Consent Order.
- 3. Respondents admit the jurisdiction of the Director of Insurance, State of Arizona, admit the forgoing Findings of Fact, consent to the entry of the foregoing Conclusions of Law and consent to the entry of this Order.
- 4. Respondents state that no promise of any kind or nature has been made to induce them to enter into this Order and that they have entered into this order voluntarily.
- 5. Respondents acknowledge that the acceptance of this
  Order by the Director of Insurance, State of Arizona, is solely to
  settle this matter against them and does not preclude any other
  agency or officer of this state or subdivision from instituting
  other civil or criminal proceedings as may be appropriate now or
  in the future.

1	Date 4/27/98 Lela Tombuse
2	ROBERT PONIKVAR
3	Date 4/27/98 Jalutonhar
4	AMG BONDING & INSURANCE SERVICES, INC.
5	COPY of the foregoing mailed this28th day ofApril 1998 to:
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7	Administrative Law Judge Office of Administrative Hearings
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9	Michael J. De La Cruz
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22	Office of the Special Deputy Receiver
22	Illinois Department of Insurance 222 Merchandise Mart Plaza, Suite 1450
23	Chicago, Illinois 60654 Attention: Manuel R. Porcioncula RECENTED
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